

U.S. District Court
Southern District of New York (Foley Square)
CIVIL DOCKET FOR CASE #: 1:12-cv-04339-ALC-JLC

Hernandez et al v. The Fresh Diet Inc. et al
Assigned to: Judge Andrew L. Carter, Jr
Referred to: Magistrate Judge James L. Cott
Cause: 29:201 Fair Labor Standards Act

Date Filed: 06/01/2012
Jury Demand: Plaintiff
Nature of Suit: 710 Labor: Fair Standards
Jurisdiction: Federal Question

Plaintiff

Fernando Hernandez

*Each individually, and on behalf of all
other persons similarly situated*

represented by **Peter J. Andrews**
The Harman Firm PC
200 West 57th Street
Suite 900
New York, NY 10123
(212) 425-2600
Fax: (212) 202-3926
Email: pandrews@thearmanfirm.com
ATTORNEY TO BE NOTICED

Walker Green Harman , Jr.

The Harman Firm PC
200 West 57th Street
New York, NY 10123
(212) 425-2600
Fax: (212) 202-3926
Email: wharman@thearmanfirm.com
ATTORNEY TO BE NOTICED

Plaintiff

Kenneth Chow

*Each individually, and on behalf of all
other persons similarly situated*

represented by **Peter J. Andrews**
(See above for address)
ATTORNEY TO BE NOTICED

Walker Green Harman , Jr.

(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

Brian White

*Each individually, and on behalf of all
other persons similarly situated*
TERMINATED: 10/26/2012

represented by **Peter J. Andrews**
(See above for address)
ATTORNEY TO BE NOTICED

Walker Green Harman , Jr.

(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff**David Williams***Each individually, and on behalf of all other persons similarly situated*represented by **Peter J. Andrews**

(See above for address)

ATTORNEY TO BE NOTICED**Walker Green Harman , Jr.**

(See above for address)

ATTORNEY TO BE NOTICED**Plaintiff****Marquis Acklin***Each individually, and on behalf of all other persons similarly situated*represented by **Peter J. Andrews**

(See above for address)

ATTORNEY TO BE NOTICED**Walker Green Harman , Jr.**

(See above for address)

ATTORNEY TO BE NOTICED**Plaintiff****Cecilia Jackson***Each individually, and on behalf of all other persons similarly situated*represented by **Peter J. Andrews**

(See above for address)

ATTORNEY TO BE NOTICED**Walker Green Harman , Jr.**

(See above for address)

ATTORNEY TO BE NOTICED**Plaintiff****Teresa Jackson***Each individually, and on behalf of all other persons similarly situated*represented by **Peter J. Andrews**

(See above for address)

ATTORNEY TO BE NOTICED**Walker Green Harman , Jr.**

(See above for address)

ATTORNEY TO BE NOTICED**Plaintiff****Michael Lattimore***Each individually, and on behalf of all other persons similarly situated*represented by **Peter J. Andrews**

(See above for address)

ATTORNEY TO BE NOTICED**Walker Green Harman , Jr.**

(See above for address)

ATTORNEY TO BE NOTICED**Plaintiff****Juany Guzman***Each individually, and on behalf of all other persons similarly situated*represented by **Peter J. Andrews**

(See above for address)

ATTORNEY TO BE NOTICED

Walker Green Harman , Jr.
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

Bryant White
*Individually, and on behalf of all others
similarly situated*

represented by **Peter J. Andrews**
(See above for address)
ATTORNEY TO BE NOTICED

Walker Green Harman , Jr.
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

Rafael Antonio Brito

represented by **Peter J. Andrews**
(See above for address)
ATTORNEY TO BE NOTICED

Walker Green Harman , Jr.
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

Irving Collado

represented by **Peter J. Andrews**
(See above for address)
ATTORNEY TO BE NOTICED

Walker Green Harman , Jr.
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

Darryl James

represented by **Walker Green Harman , Jr.**
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

Yajaira Guerrero

represented by **Peter J. Andrews**
(See above for address)
ATTORNEY TO BE NOTICED

Walker Green Harman , Jr.
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

Andres Salas

represented by **Walker Green Harman , Jr.**
(See above for address)

*LEAD ATTORNEY***Plaintiff****Ezequiel Ortiz**

represented by **Peter J. Andrews**
(See above for address)
ATTORNEY TO BE NOTICED

Walker Green Harman , Jr.
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff**Denny M. Delarosa**

represented by **Peter J. Andrews**
(See above for address)
ATTORNEY TO BE NOTICED

Walker Green Harman , Jr.
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff**Eugene Kimble**

represented by **Peter J. Andrews**
(See above for address)
ATTORNEY TO BE NOTICED

Walker Green Harman , Jr.
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff**Edwin Perez**

represented by **Peter J. Andrews**
(See above for address)
ATTORNEY TO BE NOTICED

Walker Green Harman , Jr.
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff**Konate Bengaly**

represented by **Peter J. Andrews**
(See above for address)
ATTORNEY TO BE NOTICED

Walker Green Harman , Jr.
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff**Andrew Spence**

represented by **Peter J. Andrews**

(See above for address)
ATTORNEY TO BE NOTICED

Walker Green Harman , Jr.
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

Michael J. Rodriguez

represented by **Peter J. Andrews**
(See above for address)
ATTORNEY TO BE NOTICED

Walker Green Harman , Jr.
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

Oscar Ore

represented by **Peter J. Andrews**
(See above for address)
ATTORNEY TO BE NOTICED

Walker Green Harman , Jr.
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

Maria Tauares

represented by **Peter J. Andrews**
(See above for address)
ATTORNEY TO BE NOTICED

Walker Green Harman , Jr.
(See above for address)
ATTORNEY TO BE NOTICED

V.

Defendant

The Fresh Diet Inc.

represented by **Jeffery Alan Meyer**
Kaufman, Dolowich, Voluck & Gonzo
LLP
135 Crossways Park Drive
Woodbury, NY 11797
(516)-681-1100
Fax: (516)681-1101
Email: jmeyer@kdvglaw.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Yale Brett Pollack
Kaufman Dolowich Voluck & Gonzo

SDNY CM/ECF Version 4.2
135 Crossways Park Drive
Suite 201
Woodbury, NY 11797
(516)-681-1100
Fax: (516) 681-1101
Email: ypollack@kdvglaw.com
ATTORNEY TO BE NOTICED

Defendant

Syed Hussain
Individually

represented by **Jeffery Alan Meyer**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Judah Schloss
Individually

represented by **Jeffery Alan Meyer**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Yale Brett Pollack
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

Zaimi Duchman
Individually

represented by **Jeffery Alan Meyer**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

**Late Night Express Courier Services,
Inc. (FL)**

Defendant

Fresh Diet Express Corp. (NY)

represented by **Jeffery Alan Meyer**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

The Fresh Diet - NY Inc. (NY)

represented by **Jeffery Alan Meyer**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Fresh Diet Grab & Go, Inc. (FL)
also known as
YS Catering Holdings, Inc. (FL)

represented by **Jeffery Alan Meyer**
(See above for address)
LEAD ATTORNEY

doing business as
YS Catering, Inc. (FL)

ATTORNEY TO BE NOTICED

Defendant

Fresh Diet Express Corp. (FL)

represented by **Jeffery Alan Meyer**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
06/01/2012	<u>1</u>	COMPLAINT against Zaimi Duchman, Syed Hussain, Judah Schloss, The Fresh Diet Inc.. (Filing Fee \$ 350.00, Receipt Number 1039904) Document filed by Cecilia Jackson, Kenneth Chow, David Williams, Marquis Acklin, Juany Guzman, Michael Lattimore, Fernando Hernandez, Teresa Jackson, Brian White.(jfe) (mro). (Entered: 06/05/2012)
06/01/2012		SUMMONS ISSUED as to Zaimi Duchman, Syed Hussain, Judah Schloss, The Fresh Diet Inc.. (jfe) (Entered: 06/05/2012)
06/01/2012		Magistrate Judge James L. Cott is so designated. (jfe) (Entered: 06/05/2012)
06/01/2012		Case Designated ECF. (jfe) (Entered: 06/05/2012)
06/01/2012	<u>2</u>	STANDING ORDER IN RE PILOT PROJECT REGARDING CASE MANAGEMENT TECHNIQUES FOR COMPLEX CIVIL CASES IN THE SOUTHERN DISTRICT OF NEW YORK (See M-10-468 Order filed November 1, 2011). This case is hereby designated for inclusion in the Pilot Project Regarding Case Management Techniques for Complex Civil Cases in the Southern District of New York (the Pilot Project), unless the judge to whom this case is assigned determines otherwise. This case is designated for inclusion in the Pilot Project because it is a class action, an MDL action, or is in one of the following Nature of Suit categories: 160, 245, 315, 355, 365, 385, 410, 830, 840, 850, 893, or 950. The presiding judge in a case that does not otherwise qualify for inclusion in the Pilot Project may nevertheless designate the case for inclusion in the Pilot Project by issuing an order directing that the case be included in the Pilot Project. The description of the Pilot Project, including procedures to be followed, is attached to this Order. (Signed by Judge Loretta A. Preska on 10/31/2011) (jfe) (Entered: 06/05/2012)
06/05/2012		***NOTE TO ATTORNEY TO E-MAIL PDF. Note to Attorney Walker Green Harman, Jr. for noncompliance with Section 14.3 of the S.D.N.Y. Electronic Case Filing Rules & Instructions. E-MAIL the PDF for Document <u>1</u> Complaint, to: caseopenings@nysd.uscourts.gov. (jfe) (Entered: 06/05/2012)
06/06/2012	<u>3</u>	ORDER REFERRING CASE TO MAGISTRATE JUDGE. Order that case be referred to the Clerk of Court for assignment to a Magistrate Judge for General Pretrial (includes scheduling, discovery, non-dispositive pretrial motions, and settlement). Referred to Magistrate Judge James L. Cott. (Signed by Judge Andrew L. Carter, Jr on 6/6/2012) (laq) (Entered: 06/07/2012)
06/13/2012		***NOTE TO ATTORNEY TO E-MAIL PDF. Note to Attorney Walker

		Green Harman, Jr. for noncompliance with Section 14.3 of the S.D.N.Y. Electronic Case Filing Rules & Instructions. E-MAIL the PDF for Document 1 Complaint, to: caseopenings@nysd.uscourts.gov. (ama) (Entered: 06/13/2012)
06/22/2012	<u>4</u>	AFFIDAVIT OF SERVICE of Summons and Complaint,. The Fresh Diet Inc. served on 6/8/2012, answer due 6/29/2012. Service was accepted by JUDAH SCHLASS, s/h/a JUDAH SCHLOSS, Chief Operating Officer. Document filed by Cecilia Jackson; Kenneth Chow; David Williams; Marquis Acklin; Juany Guzman; Michael Lattimore; Fernando Hernandez; Teresa Jackson; Brian White. (Harman, Walker) (Entered: 06/22/2012)
06/22/2012	<u>5</u>	AFFIDAVIT OF SERVICE of Summons and Complaint,. Judah Schloss served on 6/8/2012, answer due 6/29/2012. Service was accepted by JUDAH SCHLASS, s/h/a JUDAH SCHLOSS, Chief Operating Officer. Document filed by Cecilia Jackson; Kenneth Chow; David Williams; Marquis Acklin; Juany Guzman; Michael Lattimore; Fernando Hernandez; Teresa Jackson; Brian White. (Harman, Walker) (Entered: 06/22/2012)
06/22/2012	<u>6</u>	NOTICE OF CHANGE OF ADDRESS by Walker Green Harman, Jr on behalf of Marquis Acklin, Kenneth Chow, Juany Guzman, Fernando Hernandez, Cecilia Jackson, Teresa Jackson, Michael Lattimore, Brian White, David Williams. New Address: The Harman Firm, PC, 200 West 57th Street, Suite 900, New York, NY, USA 10019, (212) 425-2600. (Harman, Walker) (Entered: 06/22/2012)
07/03/2012	<u>7</u>	NOTICE OF APPEARANCE by Jeffery Alan Meyer on behalf of The Fresh Diet Inc. (Meyer, Jeffery) (Entered: 07/03/2012)
07/10/2012	<u>8</u>	ENDORSED LETTER addressed to Judge Andrew L. Carter, Jr. and Magistrate Judge James L. Cott from Peter J. Andrews dated 7/10/2012 re: We believe that two of our clients have been retaliated against for participating in this action. ENDORSEMENT: Please direct your request for injunctive relief to me. SO ORDERED. (Signed by Judge Andrew L. Carter, Jr on 7/10/2012) (ama) (Entered: 07/10/2012)
07/11/2012	<u>9</u>	ORDER FOR CONFERENCE PURSUANT TO RULE 16: Case Management Conference set for 8/22/2012 at 02:00 PM in Courtroom 18A, 500 Pearl Street, New York, NY 10007 before Magistrate Judge James L. Cott, and as further set forth in this document. (Signed by Magistrate Judge James L. Cott on 7/11/2012) Copies Sent By Chambers. (cd) (Entered: 07/11/2012)
07/12/2012	<u>10</u>	NOTICE OF APPEARANCE by Peter J. Andrews on behalf of Marquis Acklin, Kenneth Chow, Juany Guzman, Fernando Hernandez, Cecilia Jackson, Teresa Jackson, Michael Lattimore, Brian White, David Williams (Andrews, Peter) (Entered: 07/12/2012)
07/12/2012	<u>11</u>	NOTICE of MOTION for ORDER to SHOW CAUSE WHY PRELIMINARY INJUNCTION SHOULD NOT BE ISSUED. Document filed by Marquis Acklin, Kenneth Chow, Juany Guzman, Fernando Hernandez, Cecilia Jackson, Teresa Jackson, Michael Lattimore, Brian White, David Williams. (Andrews, Peter) (Entered: 07/12/2012)
07/12/2012	<u>12</u>	MOTION for Order to Show Cause <i>Re Preliminary Injunction</i> . Document filed by Marquis Acklin, Kenneth Chow, Juany Guzman, Cecilia Jackson, Teresa Jackson, Michael Lattimore, Brian White, David Williams. Return Date set for 7/27/2012 at

		09:30 AM.(Andrews, Peter) (Entered: 07/12/2012)
07/12/2012	<u>13</u>	MEMORANDUM OF LAW in Support re: <u>12</u> MOTION for Order to Show Cause <i>Re Preliminary Injunction</i> .. Document filed by Marquis Acklin, Kenneth Chow, Juany Guzman, Fernando Hernandez, Cecilia Jackson, Teresa Jackson, Michael Lattimore, Brian White, David Williams. (Andrews, Peter) (Entered: 07/12/2012)
07/12/2012	<u>14</u>	AFFIDAVIT of Fernando Hernandez in Support re: <u>12</u> MOTION for Order to Show Cause <i>Re Preliminary Injunction</i> .. Document filed by Fernando Hernandez. (Andrews, Peter) (Entered: 07/12/2012)
07/12/2012	<u>15</u>	AFFIDAVIT of Juany Guzman in Support re: <u>12</u> MOTION for Order to Show Cause <i>Re Preliminary Injunction</i> .. Document filed by Juany Guzman. (Andrews, Peter) (Entered: 07/12/2012)
07/12/2012	<u>16</u>	AFFIDAVIT of Peter J. Andrews in Support re: <u>12</u> MOTION for Order to Show Cause <i>Re Preliminary Injunction</i> .. Document filed by Marquis Acklin, Kenneth Chow, Juany Guzman, Fernando Hernandez, Cecilia Jackson, Teresa Jackson, Michael Lattimore, Brian White, David Williams. (Attachments: # <u>1</u> Exhibit A) (Andrews, Peter) (Entered: 07/12/2012)
07/12/2012	<u>17</u>	FILING ERROR - ELECTRONIC FILING OF NON-ECF DOCUMENT - PROPOSED MOTION for Order to Show Cause <i>Why Preliminary Injunction Should Not Be Issued Enjoining Defendants from Retaliating against Plaintiffs</i> . Document filed by Marquis Acklin, Kenneth Chow, Juany Guzman, Fernando Hernandez, Cecilia Jackson, Teresa Jackson, Michael Lattimore, Brian White, David Williams. Return Date set for 7/27/2012 at 09:30 AM.(Andrews, Peter) Modified on 7/13/2012 (db). (Entered: 07/12/2012)
07/13/2012		***NOTE TO ATTORNEY TO RE-FILE DOCUMENT - NON-ECF DOCUMENT ERROR. Note to Attorney Peter J. Andrews to E-MAIL Document No. <u>17</u> Order to judgments@nysd.uscourts.gov. This document is not filed via ECF. (db) (Entered: 07/13/2012)
07/16/2012	<u>18</u>	ORDER TO SHOW CAUSE WHY PRELIMINARY INJUNCTION SHOULD NOT BE ISSUED ENJOINING DEFENDANTS FROM RETALIATING AGAINST PLAINTIFFS filed by Juany Guzman, Fernando Hernandez. Defendants shall show cause as to why an order should not be issued pursuant to Rule 65 of the F.R.C.P., and as further set forth in this Order. Show Cause Hearing set for 7/27/2012 at 12:00 PM in Courtroom 14A, 500 Pearl Street, New York, NY 10007 before Judge Andrew L. Carter Jr. Personal service of a copy of this order and memorandum of law in support thereof upon the Defendants or their counsel on or before 7/16/2012 at 5:00 p.m., shall be deemed and good and sufficient service thereof. Defendants have an opportunity to file written opposition by 7/20/2012. Plaintiffs' reply, if necessary, is due by 7/25/2012. (Signed by Judge Andrew L. Carter, Jr on 7/16/2012) (tro) (Entered: 07/16/2012)
07/19/2012	<u>19</u>	ENDORSED LETTER addressed to Judge Andrew L. Carter, Jr. from Jeffrey A. Meyer dated 7/19/2012 re: Counsel for Defendant The Fresh Diet, Inc. that the undersigned counsel will be traveling and on vacation from the evening of July 26, 2012 through August 3, 2012 and respectfully requests that, in light of the aforementioned scheduling conflict the hearing be moved up to the morning of July 26, 2012. ENDORSEMENT: The Order To Show Cause hearing is adjourned to 8/8/12 at 10:00 a.m., (Show Cause Hearing reset for 8/8/2012 at 10:00 AM before

		Judge Andrew L. Carter Jr.) (Signed by Judge Andrew L. Carter, Jr on 7/19/2012) (pl) (Entered: 07/19/2012)
07/20/2012	20	NOTICE OF APPEARANCE by Jeffery Alan Meyer on behalf of Judah Schloss (Meyer, Jeffery) (Entered: 07/20/2012)
07/20/2012	21	RULE 7.1 CORPORATE DISCLOSURE STATEMENT. No Corporate Parent. Document filed by The Fresh Diet Inc..(Meyer, Jeffery) (Entered: 07/20/2012)
07/20/2012	22	ANSWER to 1 Complaint,. Document filed by The Fresh Diet Inc..(Meyer, Jeffery) (Entered: 07/20/2012)
07/23/2012	23	ENDORSED LETTER addressed to Judge Andrew L. Carter from Jeffrey A. Meyer dated 7/19/2012 re: Defendant's counsel writes to request that the deadlines for submitting their opposition as well as Plaintiff's reply, be adjusted accordingly. ENDORSEMENT: So Ordered. (Responses due by 7/31/2012, Replies due by 8/6/2012.) (Signed by Judge Andrew L. Carter, Jr on 7/23/2012) (ago) (Entered: 07/23/2012)
07/31/2012	24	FILING ERROR - WRONG EVENT TYPE SELECTED FROM MENU - AFFIDAVIT of Syed Hussain in Opposition re: 17 PROPOSED MOTION for Order to Show Cause <i>Why Preliminary Injunction Should Not Be Issued Enjoining Defendants from Retaliating against Plaintiffs.</i>, 12 MOTION for Order to Show Cause <i>Re Preliminary Injunction</i>. Document filed by The Fresh Diet Inc. (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C)(Pollack, Yale) Modified on 7/31/2012 (db). (Entered: 07/31/2012)
07/31/2012	25	FILING ERROR - WRONG EVENT TYPE SELECTED FROM MENU - MEMORANDUM OF LAW in Opposition re: 17 PROPOSED MOTION for Order to Show Cause <i>Why Preliminary Injunction Should Not Be Issued Enjoining Defendants from Retaliating against Plaintiffs.</i>, 12 MOTION for Order to Show Cause <i>Re Preliminary Injunction</i>. Document filed by The Fresh Diet Inc. (Pollack, Yale) Modified on 7/31/2012 (db). (Entered: 07/31/2012)
07/31/2012		***NOTE TO ATTORNEY TO RE-FILE DOCUMENT - EVENT TYPE ERROR. Note to Attorney Yale Brett Pollack to RE-FILE Document 24 Affidavit in Opposition to Motion. Use the event type Affidavit in Opposition (non-motion) found under the event list Other Answers, then link to 18 Order. (db) (Entered: 07/31/2012)
07/31/2012		***NOTE TO ATTORNEY TO RE-FILE DOCUMENT - EVENT TYPE ERROR. Note to Attorney Yale Brett Pollack to RE-FILE Document 25 Memorandum of Law in Opposition to Motion. Use the event type Memorandum in Opposition (non-motion) found under the event list Other Answers, then link to 18 Order. (db) (Entered: 07/31/2012)
08/06/2012	26	NOTICE OF APPEARANCE by Yale Brett Pollack on behalf of Judah Schloss, The Fresh Diet Inc. (Pollack, Yale) (Entered: 08/06/2012)
08/06/2012	27	AFFIDAVIT of Syed Hussain in Opposition re: 18 Order to Show Cause, Set Deadlines,,,,,,. Document filed by The Fresh Diet Inc.. (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C)(Pollack, Yale) (Entered: 08/06/2012)
08/06/2012	28	MEMORANDUM OF LAW in Opposition re: 18 Order to Show Cause, Set Deadlines,,,,,,. Document filed by The Fresh Diet Inc.. (Pollack, Yale) (Entered: 08/06/2012)

		08/06/2012)
08/07/2012	<u>29</u>	FILING ERROR - WRONG EVENT TYPE SELECTED FROM MENU - RESPONSE in Support re: <u>17</u> PROPOSED MOTION for Order to Show Cause <i>Why Preliminary Injunction Should Not Be Issued Enjoining Defendants from Retaliating against Plaintiffs</i> . Document filed by Marquis Acklin, Kenneth Chow, Juany Guzman, Fernando Hernandez, Cecilia Jackson, Teresa Jackson, Michael Lattimore, Brian White, David Williams. (Harman, Walker) Modified on 8/8/2012 (db). (Entered: 08/07/2012)
08/07/2012	<u>30</u>	FILING ERROR - WRONG EVENT TYPE SELECTED FROM MENU - DECLARATION of Peter J. Andrews in Support re: <u>17</u> PROPOSED MOTION for Order to Show Cause <i>Why Preliminary Injunction Should Not Be Issued Enjoining Defendants from Retaliating against Plaintiffs</i> . Document filed by Marquis Acklin, Kenneth Chow, Juany Guzman, Fernando Hernandez, Cecilia Jackson, Teresa Jackson, Michael Lattimore, Brian White, David Williams. (Attachments: # <u>1</u> Exhibit A, Transcript of Discussion between Plaintiff Fernando Hernandez and Defendant Syed Hussain, Recorded on iPhone, May 21, 2012)(Harman, Walker) Modified on 8/8/2012 (db). (Entered: 08/07/2012)
08/08/2012		***NOTE TO ATTORNEY TO RE-FILE DOCUMENT - EVENT TYPE ERROR. Note to Attorney Walker Green Harman to RE-FILE Document <u>29</u> Response in Support of Motion. Use the event type Reply Memorandum in Support (non-motion) found under the event list Other Answers, then link to <u>18</u> Order. (db) (Entered: 08/08/2012)
08/08/2012		***NOTE TO ATTORNEY TO RE-FILE DOCUMENT - EVENT TYPE ERROR. Note to Attorney Walker Green Harman to RE-FILE Document <u>30</u> Declaration in Support of Motion. Use the event type Declaration in Support (non-motion) found under the event list Other Answers, then link to <u>18</u> Order. (db) (Entered: 08/08/2012)
08/08/2012		Minute Entry for proceedings held before Judge Andrew L. Carter, Jr: Show Cause Hearing held on 8/8/2012. Peter J. Andrews and Walker Harman, Jr. for Plaintiff(s). Jeffrey Meyer for Defendant(s). See transcript for complete details. Hearing adjourned to 8/15/12 at 11:00 a.m. (jfe) (Entered: 08/21/2012)
08/15/2012		Minute Entry for proceedings held before Judge Andrew L. Carter, Jr: Show Cause Hearing held on 8/15/2012, Motion(s) terminated: <u>12</u> MOTION for Order to Show Cause <i>Re Preliminary Injunction</i> . filed by Brian White, Teresa Jackson, Juany Guzman, Marquis Acklin, Kenneth Chow, Michael Lattimore, David Williams, Cecilia Jackson. Peter J. Andrews for Plaintiff(s). Jeffrey Meyer for Defendant(s). Plaintiffs motion for preliminary injunction is DENIED for reasons stated on the record. (jfe) (Entered: 08/21/2012)
08/22/2012	<u>31</u>	ORDER SCHEDULING SETTLEMENT CONFERENCE: Settlement Conference set for 12/14/2012 at 02:00 PM in Courtroom 18A, 500 Pearl Street, New York, NY 10007 before Magistrate Judge James L. Cott. (Signed by Magistrate Judge James L. Cott on 8/22/2012) (djc) (Entered: 08/22/2012)
08/22/2012	<u>32</u>	AFFIDAVIT OF SERVICE of Summons and Complaint,. Syed Hussain served on 8/22/2012, answer due 9/12/2012. Service was accepted by OWEN DACRES, ASSISTANT DRIVER MANAGER. Document filed by Cecilia Jackson; Kenneth Chow; David Williams; Marquis Acklin; Juany Guzman; Michael Lattimore;

		Fernando Hernandez; Teresa Jackson; Brian White. (Harman, Walker) (Entered: 08/22/2012)
08/22/2012	33	SCHEDULING ORDER: Amended Pleadings due by 10/26/2012. Joinder of Parties due by 10/26/2012. Motions due by 5/10/2013. Responses due by 5/31/2013 Replies due by 6/14/2013. Deposition due by 4/26/2013. Discovery due by 3/29/2013. Status Conference set for 11/14/2012 at 02:00 PM before Magistrate Judge James L. Cott. Pretrial Order due by 5/31/2013. ENDORSEMENT: 6. Motion for conditional Collective Action Certification. The parties shall meet and confer to determine whether a motion for conditional collective action certification pursuant to 29 U.S.C. 212(b) will be required. If the parties cannot consent to notice, Plaintiffs will file a motion on or before September 20, 2012. Defendant's opposition will be due on October 11, 2012, and reply is due October 18, 2012. 9. Following discussions, the parties agreed to a settlement conference before me in early December, 2012. A separate order will issue to that effect. (Signed by Magistrate Judge James L. Cott on 8/22/2012) (dj) Modified on 8/29/2012 (dj). (Entered: 08/23/2012)
08/22/2012		Minute Entry for proceedings held before Magistrate Judge James L. Cott: Scheduling Conference held on 8/22/2012. (js) (Entered: 08/31/2012)
08/30/2012	34	AFFIDAVIT OF SERVICE of Summons and Complaint,. Zaimi Duchman served on 8/23/2012, answer due 9/13/2012. Service was accepted by Blanca Kleiner, UPS Onsite Manager. Document filed by Cecilia Jackson; Kenneth Chow; David Williams; Marquis Acklin; Juany Guzman; Michael Lattimore; Fernando Hernandez; Teresa Jackson; Brian White. (Harman, Walker) (Entered: 08/30/2012)
09/21/2012	35	ENDORSED LETTER addressed to Magistrate Judge James L. Cott from Peter J. Andrews dated 9/21/2012 re: Counsel for the Defendants have graciously agreed to a short extension of time so that we may explore whether we can agree to a Notice without formal motion practice. If the parties are unable to agree to the wording of a Notice, we plan to file a Motion for Preliminary Collective Action Certification by Monday, September 24, 2012. ENDORSEMENT: So ordered. (Motions due by 9/24/2012.) (Signed by Magistrate Judge James L. Cott on 9/21/2012) (rjm) (Entered: 09/24/2012)
09/24/2012	36	MOTION to Certify Class. Document filed by Marquis Acklin, Kenneth Chow, Juany Guzman, Fernando Hernandez, Cecilia Jackson, Teresa Jackson, Michael Lattimore, Brian White, David Williams.(Andrews, Peter) (Entered: 09/24/2012)
09/24/2012	37	MEMORANDUM OF LAW in Support re: 36 MOTION to Certify Class.. Document filed by Marquis Acklin, Kenneth Chow, Juany Guzman, Fernando Hernandez, Cecilia Jackson, Teresa Jackson, Michael Lattimore, Brian White, David Williams. (Andrews, Peter) (Entered: 09/24/2012)
09/24/2012	38	DECLARATION of Peter J. Andrews in Support re: 36 MOTION to Certify Class.. Document filed by Marquis Acklin, Kenneth Chow, Juany Guzman, Fernando Hernandez, Cecilia Jackson, Teresa Jackson, Michael Lattimore, Brian White, David Williams. (Attachments: # 1 Exhibit A)(Andrews, Peter) (Entered: 09/24/2012)
09/24/2012	39	FILING ERROR - DEFICIENT DOCKET ENTRY - AFFIDAVIT of Fernando Hernandez in Support re: 36 MOTION to Certify Class.. Document filed by Marquis Acklin, Kenneth Chow, Juany Guzman, Fernando Hernandez, Cecilia Jackson, Teresa Jackson, Michael Lattimore, Brian White, David Williams. (Andrews, Peter) Modified on 9/25/2012 (ldi). (Entered: 09/24/2012)

09/24/2012	<u>40</u>	FILING ERROR - DEFICIENT DOCKET ENTRY - AFFIDAVIT of Juany Guzman in Support re: <u>36</u> MOTION to Certify Class.. Document filed by Marquis Acklin, Kenneth Chow, Juany Guzman, Fernando Hernandez, Cecilia Jackson, Teresa Jackson, Michael Lattimore, Brian White, David Williams. (Andrews, Peter) Modified on 9/25/2012 (Idi). (Entered: 09/24/2012)
09/24/2012		***NOTE TO ATTORNEY TO RE-FILE DOCUMENT - DEFICIENT DOCKET ENTRY ERROR. Note to Attorney Peter J. Andrews to RE-FILE Document <u>39</u> Affidavit in Support of Motion, <u>40</u> Affidavit in Support of Motion. ERROR(S): No case number indicated on documents. (Idi) (Entered: 09/25/2012)
09/25/2012	<u>41</u>	ANSWER to <u>1</u> Complaint,. Document filed by Zaimi Duchman, Syed Hussain, Judah Schloss.(Meyer, Jeffery) (Entered: 09/25/2012)
10/11/2012	<u>42</u>	AFFIDAVIT of Judah Schloss in Opposition re: <u>36</u> MOTION to Certify Class.. Document filed by Zaimi Duchman, Syed Hussain, Judah Schloss, The Fresh Diet Inc.. (Pollack, Yale) (Entered: 10/11/2012)
10/19/2012	<u>43</u>	REPLY MEMORANDUM OF LAW in Support re: <u>36</u> MOTION to Certify Class.. Document filed by Marquis Acklin, Kenneth Chow, Juany Guzman, Fernando Hernandez, Cecilia Jackson, Teresa Jackson, Michael Lattimore, Brian White, David Williams. (Harman, Walker) (Entered: 10/19/2012)
10/24/2012	<u>44</u>	ORDER: Currently pending before the Court is Plaintiffs' Motion for Preliminary Collective Action Certification dated September 24, 2012 (Dkt. Nos. 36-38). Defendants responded in a letter dated September 25, 2012 (not docketed) and with an Affidavit in Opposition dated October 11, 2012 (Dkt. No. 42). Plaintiffs filed a Reply on October 19, 2012 (Dkt. No. 43). The dispute in this matter appears to be a narrow one: whether the conditional class certification should include drivers and other food-delivery personnel who delivered meals on behalf of The Fresh Diet, Inc. ("Fresh Diet"), but who were employed by Late Night Express Courier Services, Inc. ("Late Night Express"). The Court believes that a hearing would aid in the resolution of this matter. The parties are therefore directed to appear before the undersigned on November 8, 2012 at 10:00 a.m. in Courtroom 18A, United States Courthouse, 500 Pearl Street, New York, New York. The Court encourages the parties to exchange informal discovery in advance of the hearing regarding the relationship, if any, between Fresh Diet and Late Night Express in order to see whether the issue that has divided the parties can be resolved without judicial intervention. The parties should contact chambers as soon as possible if they wish to request an alternate date for the hearing., (Status Conference set for 11/8/2012 at 10:00 AM in Courtroom 18A, 500 Pearl Street, New York, NY 10007 before Magistrate Judge James L. Cott.) (Signed by Magistrate Judge James L. Cott on 10/24/2012) (lmb) (Entered: 10/24/2012)
10/26/2012	<u>46</u>	AMENDED COMPLAINT amending <u>1</u> Complaint, against Zaimi Duchman, Syed Hussain, Judah Schloss, The Fresh Diet Inc., Late Night Express Courier Services, Inc. (FL), Fresh Diet Express Corp. (NY), The Fresh Diet - NY Inc. (NY), Fresh Diet Grab & Go, Inc. (FL), Fresh Diet Express Corp. (FL) with JURY DEMAND.Document filed by Cecilia Jackson, Kenneth Chow, David Williams, Marquis Acklin, Juany Guzman, Michael Lattimore, Fernando Hernandez, Teresa Jackson, Bryant White. Related document: <u>1</u> Complaint, filed by Brian White, Teresa Jackson, Juany Guzman, Marquis Acklin, Kenneth Chow, Michael Lattimore, David Williams, Fernando Hernandez, Cecilia Jackson.(ft) (sac). (Entered: 11/13/2012)

11/07/2012	45	ENDORSED LETTER addressed to Magistrate Judge James L. Cott from Jeffrey A. Meyer dated 11/6/2012 re: Defendants request that should Tuesday's conference not be adjourned, it be converted to a telephone status conference. ENDORSEMENT: The November 8 hearing and the November 14 conference are both adjourned sine die. Plaintiff's motion for collective action (Dkt. No. 36) is deemed withdrawn without prejudice to reinstatement. The parties shall advise the Court by November 21, 2012 whether they have resolved the collective action notice issue. (Signed by Magistrate Judge James L. Cott on 11/7/2012) (dj) Modified on 11/7/2012 (dj). (Entered: 11/07/2012)
11/19/2012	47	RULE 7.1 CORPORATE DISCLOSURE STATEMENT. No Corporate Parent. Document filed by Fresh Diet Express Corp. (FL), Fresh Diet Express Corp. (NY), Fresh Diet Grab & Go, Inc. (FL), The Fresh Diet - NY Inc. (NY), The Fresh Diet Inc..(Meyer, Jeffery) (Entered: 11/19/2012)
11/19/2012	48	ANSWER to 46 Amended Complaint,, Document filed by Fresh Diet Express Corp. (FL), Fresh Diet Express Corp. (NY), Fresh Diet Grab & Go, Inc. (FL), The Fresh Diet - NY Inc. (NY), The Fresh Diet Inc..(Meyer, Jeffery) (Entered: 11/19/2012)
11/21/2012	49	MEMORANDUM ORDER: The parties are directed to finalize a Notice consistent with this Memorandum Order and disseminate it no later than November 30, 2012. In addition, the parties are scheduled for a settlement conference on December 14, 2012 (with ex parte settlement letters due on December 7, 2012). If the parties do not wish to proceed with the settlement conference in light of the dissemination of the Notice, they must advise the Court no later than November 30, 2012 and propose an alternative schedule for settlement. (Signed by Magistrate Judge James L. Cott on 11/21/2012) (js) (Entered: 11/21/2012)
11/28/2012	50	ENDORSED LETTER addressed to Magistrate Judge James L. Cott from Peter J. Andrews dated 11/27/2012 re: We request that that the Court direct the Defendants to provide us with a comprehensive list of all personnel who delivered meals within the tri-state area from November 30, 2009 to present. ENDORSEMENT: The request is denied without prejudice to renewal following a meet- and- confer with counsel for defendants. I strongly encourage the parties to resolve this issue without judicial intervention. The Court sua sponte extends the deadline to mail out the Notices and Opt-In forms to 12/7/2012. (Signed by Magistrate Judge James L. Cott on 11/28/2012) (cd) (Entered: 11/28/2012)
11/30/2012	51	ENDORSED LETTER addressed to Magistrate Judge James L. Cott from Peter J. Andrews dated 11/29/2012 re: We respectfully request that the Court adjourn the settlement conference by sixty (60) days, to approximately February 14, 2013. ENDORSEMENT: The settlement conference is adjourned to February 22, 2013 at 2 pm. Ex parte settlement letters are due by February 15, 2013. The December 14 conference is adjourned., (Settlement Conference set for 2/22/2013 at 02:00 PM before Magistrate Judge James L. Cott.) (Signed by Magistrate Judge James L. Cott on 11/30/2012) (lmb) (Entered: 11/30/2012)
12/04/2012	52	ORDER: On November 21, 2012, the Court issued a Memorandum Order resolving several disputes relating to the proposed collective action notice ("the Notice") (Dkt. No. 49). Among other things, the Court ordered the parties to amend the Notice to provide that opt-in Plaintiffs should send their consent forms to the Clerk of Court rather than to Plaintiffs' counsel (Id. at 5). On November 30, 2012, Plaintiffs' counsel

		advised the Court that the parties were in the process of finalizing the Notice pursuant to the Court's November 21st Memorandum Order. To that end, Plaintiffs' counsel requested clarification regarding the process for docketing any consent forms submitted by opt-in Plaintiffs. To address the issue presented by counsel, the process for docketing the consent forms shall be as follows: Upon receipt of the consent forms, the Clerk of Court shall make a copy of each consent form and sent the copy to Peter J. Andrews, Esq., The Harman Firm, P.C., 200 West 57th Street, Suite 900, New York, New York 10019. The Clerk of Court shall then redact from each consent form any addresses, telephone numbers, email addresses, and other personal identifying information provided on the form; file the redacted consent forms in the public record; and place the original forms under seal pending further order of the Court (Signed by Magistrate Judge James L. Cott on 12/4/2012) (js) Modified on 12/4/2012 (js). (Entered: 12/04/2012)
12/10/2012	55	(REDACTED) CONSENT TO BECOME PARTY PLAINTIFF UNDER THE F.L.S.A. Document filed by Rafael Antonio Brito.(mro) Modified on 12/20/2012 (mro). (Entered: 12/20/2012)
12/11/2012	53	ENDORSED LETTER addressed to Judge Andrew L. Carter, Jr. from Peter J. Andrews dated 12/5/2012, re: request that all responses to discovery in this action, including Defendants' responses to Plaintiffs' First and Second Requests for the Production of Documents and Interrogatories be due on Monday, January 7, 2013. ENDORSEMENT: The request is granted nunc pro tunc. In the future, the parties are directed not to wait until the last day something is due to seek relief from the Court and are directed to meet and confer contacting the Court. (Signed by Magistrate Judge James L. Cott on 12/11/2012) (ja) (Entered: 12/11/2012)
12/13/2012	56	(REDACTED) CONSENT TO BECOME PARTY PLAINTIFF UNDER THE F.L.S.A. Document filed by Irving Collado.(mro) Modified on 12/20/2012 (mro). (Entered: 12/20/2012)
12/18/2012	58	(REDACTED) CONSENT TO BECOME PARTY PLAINTIFF UNDER THE 29 U.S.C. 216(b). Document filed by Darryl James.(tro) (Entered: 12/26/2012)
12/19/2012	54	Letter addressed to Magistrate Judge James L. Cott from Yale Pollack dated 12/19/2012 re: Counsel for Defendants writes this letter in response to Plaintiffs' attorneys' letter of today's date. Plaintiffs' attorneys continue to waste the Court's time and resources with an unnecessary letter writing campaign without first reaching out to our office to see if any outstanding issues can be resolved without Court intervention. Document filed by Zaimi Duchman, Fresh Diet Express Corp. (FL), Fresh Diet Express Corp. (NY), Fresh Diet Grab & Go, Inc. (FL), Syed Hussain, Late Night Express Courier Services, Inc. (FL), Judah Schloss, The Fresh Diet - NY Inc. (NY).(pl) (Entered: 12/19/2012)
12/19/2012	57	ENDORSED LETTER addressed to Magistrate Judge James L. Cott from Walker G. Harman, Jr. dated 12/19/2012 re: Counsel for plaintiffs write in regards to the list of all of Defendants' delivery drivers who provided meal delivery services within the New York City Tri-State metropolitan area within the past three (3) years ("Collective Action List"). Defendants have provided Plaintiffs with this Collective Action List on November 28, 2012, which contained sixty-two (62) entries and listed sixty-one (61) individuals and also respectfully request that the Court direct Defendants to provide us with an accurate and comprehensive list by the end of the week. ENDORSEMENT: The request is denied without prejudice to renewal

		following a proper "meet and confer" with defendants. In light of Defendants letter of todays date, the parties have no fully discussed the issues raised herein, and the Court will take no action until they do so. The Court strongly encourages counsel, as officers of the Court, to work together to resolve their disputes rather than constantly seeking judicial intervention.. (Signed by Magistrate Judge James L. Cott on 12/19/2012) (pl) (Entered: 12/20/2012)
01/03/2013	59	(REDACTED) CONSENT TO BECOME PARTY PLAINTIFF UNDER THE F.L.S.A. Document filed by Yajaira Guerrero.(mro) (Entered: 01/04/2013)
01/09/2013	60	ENDORSED LETTER addressed to Magistrate Judge James L. Cott from Walker G. Harman Jr. dated 1/4/2013 re: Accordingly, we respectfully request that the Court orders a new sixty days opt in period for the individuals who did not already opt into the lawsuit and who (i) were previously identified by Defendants but whose address has been updated in Defendants' revised list, or (ii) who were not identified in Defendants' November 28 list. A list of these individuals is attached hereto as Exhibit A. Plaintiffs contacted Defendants who advised that they consented to this request, but only provided that it apply solely to the additional individuals in Ex. A, and that this new sixty-day opt-in period start on December 21, 2012 (the day on which Defendants forwarded the revised Collective Action List to Plaintiffs). Finally, Plaintiffs hereby inform the Court that they intend to move for class action certification under Fed. R. Civ. P. 23. We are currently discussing this issue with Defendants before it is formally brought before the Court. ENDORSEMENT: The list of individuals set forth in Appendix A shall have 60 days from December 21, 2012 to opt in to this lawsuit. So Ordered. (Signed by Magistrate Judge James L. Cott on 1/9/2013) (js) (Entered: 01/09/2013)
01/14/2013	61	CONSENT TO BECOME PARTY PLAINTIFF UNDER THE F.L.S.A.. Document filed by Andres Salas.(Harman, Walker) (Entered: 01/14/2013)
01/16/2013		***DELETED DOCUMENT. Deleted document number 62 Consent to be a Party Plaintiff. The document was incorrectly filed in this case. (sac) (sac). (Entered: 01/24/2013)
01/16/2013		***DELETED DOCUMENT. Deleted document number 63 Consent to be a Party Plaintiff. The document was incorrectly filed in this case. (sac) (Entered: 01/24/2013)
01/16/2013	70	(REDACTED) CONSENT TO BECOME PARTY PLAINTIFF UNDER THE F.L.S.A. Document filed by Edwin Perez.(lmb) (Entered: 01/25/2013)
01/16/2013	72	(REDACTED) CONSENT TO BECOME PARTY PLAINTIFF UNDER THE F.L.S.A. Document filed by Andrew Spence.(lmb) (Entered: 01/25/2013)
01/18/2013	69	(REDACTED) CONSENT TO BECOME PARTY PLAINTIFF UNDER THE F.L.S.A. Document filed by Eugene Kimble.(mro) (Entered: 01/25/2013)
01/22/2013	67	(REDACTED) CONSENT TO BECOME PARTY PLAINTIFF UNDER THE F.L.S.A. Document filed by Ezequiel Ortiz.(lmb) (Entered: 01/25/2013)
01/23/2013	68	(REDACTED) CONSENT TO BECOME PARTY PLAINTIFF UNDER THE F.L.S.A. Document filed by Denny M. Delarosa.(lmb) (Entered: 01/25/2013)
01/23/2013	71	(REDACTED) CONSENT TO BECOME PARTY PLAINTIFF UNDER THE F.L.S.A. Document filed by Konate Bengaly.(mro) (Entered: 01/25/2013)

01/23/2013	73	(REDACTED) CONSENT TO BECOME PARTY PLAINTIFF UNDER THE F.L.S.A. Document filed by Michael J. Rodriguez.(mro) (Entered: 01/25/2013)
01/25/2013	65	TRANSCRIPT of Proceedings re: CONFERENCE held on 8/15/2012 before Judge Andrew L. Carter, Jr.. Court Reporter/Transcriber: Tara Jones, (212) 805-0300. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 2/19/2013. Redacted Transcript Deadline set for 2/28/2013. Release of Transcript Restriction set for 4/29/2013.(Rodriguez, Somari) (Entered: 01/25/2013)
01/25/2013	66	NOTICE OF FILING OF OFFICIAL TRANSCRIPT Notice is hereby given that an official transcript of a CONFERENCE proceeding held on 8/15/12 has been filed by the court reporter/transcriber in the above-captioned matter. The parties have seven (7) calendar days to file with the court a Notice of Intent to Request Redaction of this transcript. If no such Notice is filed, the transcript may be made remotely electronically available to the public without redaction after 90 calendar days... (Rodriguez, Somari) (Entered: 01/25/2013)
01/28/2013	74	(REDACTED) CONSENT TO BECOME PARTY PLAINTIFF UNDER THE F.L.S.A. Document filed by Oscar Ore.(lmb) (Entered: 01/28/2013)
01/28/2013	75	(REDACTED) CONSENT TO BECOME PARTY PLAINTIFF UNDER THE F.L.S.A. Document filed by Maria Tauares.(mro) (Entered: 01/29/2013)

PACER Service Center			
Transaction Receipt			
02/07/2013 10:00:41			
PACER Login:	wh1354	Client Code:	
Description:	Docket Report	Search Criteria:	1:12-cv-04339-ALC-JLC
Billable Pages:	17	Cost:	1.70